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PATENT APPLICATION

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IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Sumit ROY et al.

Confirmation No.: 3556

Application No.: 10/698,671

Examiner: Julian Chang

Filing Date: 10/30/2003

Group Art Unit: 2452

Title: SYSTEMS AND METHODS FOR SELECTING A PROVIDER TO SERVICE CONTENT REQUESTED BY A CLIENT DEVICE

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on 09/08/2009 .

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

Respectfully submitted,
Sumit ROY et al.

By: /John P. Wagner, Jr./

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	ROY et al.	Patent Application	
Application No.:	10/698,671	Group Art Unit:	2452
Filed:	October 30, 2003	Examiner:	Chang, Julian

For: SYSTEMS AND METHODS FOR SELECTING A PROVIDER TO SERVICE CONTENT REQUESTED BY A CLIENT DEVICE

REPLY BRIEF

In response to the Examiner's Answer mailed on September 8, 2009, Appellants respectfully submit the following remarks.

REMARKS

Appellants are submitting the following remarks in response to the Examiner's Answer. In these remarks, Appellants are addressing certain arguments presented in the Examiner's Answer. While only certain arguments are addressed in this Reply Brief, this should not be construed that Appellants agree with the other arguments presented in the Examiner's Answer.

Response to Response to Argument in Examiner's Answer

First, Appellants understand the Response to Arguments to assert that "[t]he mere fact that the publishing server farm executes the delivery of the desired media content and forwards transcoded media content does not preclude the server farm from transferring a session" (emphasis added; Examiner's Answer; page 13, lines 17-19). Appellants respectfully disagree with this assertion.

As presented in the Appeal Brief, Appellants note that Agnoli discloses:

> The publishing service farm 210 acts as an intermediate between the origin servers and the user client 215. As will be described in more detail below, the publishing service farm 210 receives requests for media content from the user client 215 and obtains the requested media content from an origin server. If necessary, the publishing service farm 210 then transcodes the media content received from the origin server from a source type to a destination type that can be accommodated by the user client 215, and delivers the transcoded media content to the user client 215 or other destination client. The publishing service farm 210 performs the transcoding and/or delivery of the requested media content in a manner that is transparent to the content provider as well as the viewer of the media content. (emphasis added; [0113]).

In particular, Appellants respectfully submit that Agnoli specifically teaches that publishing service farm 210 maintains contact with the origin servers and the user client 215 by acting as an intermediate. Even while performing transcoding operations or the delivery of the media content, publishing service farm acts as the point of contact with the user client 215.

Moreover, with reference to FIG. 3 and FIGS. 4A-4D, publishing service request processor 310 serves as the single point of contact between media provider farm 330 and requesting client 402. Agnoli recites that "[i]n particular, as shown in FIG. 3, a publishing service request processor 310 at publishing service farm 210 receives a client's publishing service request and generates an associated media provider request" ([0026]). Moreover, Agnoli recites that "[t]he specific option identified by the publishing service request processor 310 is then conveyed in a media provider request to media provider farm 330" ([0078]). By specifically disclosing that the publishing server farm is for "executing the delivery of the desired media content" ([0012]) and "forwards the transcoded media content" ([0086]), Appellants respectfully maintain that Agnoli teaches away from the claimed embodiments.

Second, the Response to Arguments asserts that "Appellant's arguments are also not persuasive because Agnoli is silent with regard to transferring a session, and therefore cannot teach away from transferring a session" (emphasis added; Examiner's Answer; page 14, lines 4-6). Appellants respectfully submit that such an assertion in inconsistent with the policies and practices established in the MPEP, as well as established case law.

In particular, Appellants understand the Examiner's Answer to assert that a specific statement that transferring a session is required to establish that Agnoli teaches away from the

claimed embodiments. However, as presented in the Appeal Brief, Appellants respectfully note that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention" (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

Rather than requiring an explicit statement that transferring a session is not supported or allowed, Agnoli must be considered as a whole in determining whether or not transferring a session is supported as asserted in the Examiner's Answer. As presented above and in the Appeal Brief, Appellants respectfully submit Agnoli, as a whole, teaches away from the claimed embodiments.

Moreover, Appellants respectfully submit that Agnoli is not "simply silent as to the transferring of sessions" as asserted in the instant Examiner's Answer. In contrast, by disclosing that "[t]he publishing service farm 210 acts as an intermediate between the origin servers and the user client 215" (emphasis added; [0113]), Appellants respectfully submit that Agnoli leads away from "transferring said session to said provider" as claimed. Therefore, Appellants maintain that Agnoli teaches away from "transferring said session to said provider" as claimed.

CONCLUSION

In view of the above remarks, Appellants continue to assert that pending Claims 1-18 and 26-40 are patentable over the asserted art as the rejections under 35 U.S.C. §103(a) do not satisfy the requirements of a *prima facie* case of obviousness, for reasons presented above and for reasons previously presented in the Appeal Brief.

Respectfully submitted,

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Dated: November 9, 2009

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